



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1427

Introduced 2/9/2007, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

New Act

Creates the Displaced Building Service Workers Protection Act. Provides protections to building service employees who are regularly assigned to a covered building on a full or part-time basis for at least 25 working days immediately preceding a transition in employment and who perform work in connection with the care or maintenance of an existing building. Provides that a successor employer shall retain for a transition employment period of 25 working days at the affected site the building service employees of the terminated building service contractor and its subcontractors, or other covered employer, employed at the site covered by the terminated building service contract or owned or operated by the former covered employer. Provides that, at the end of the 25 working day transition period, the successor employer shall perform written performance evaluations and offer continued employment to all covered building service employees who receive satisfactory ratings. Excludes from coverage employees who earn more than \$25 per hour, work less than 6 hours per week, or serve in a managerial, supervisory, or confidential capacity. Sets forth exemptions. Provides that the contractor may require employees to submit to a criminal background check. Effective immediately.

LRB095 11071 LCT 31397 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Displaced Building Service Workers Protection Act.

6 Section 5. Definitions. In this Act:

7 "Building service" means work performed in connection with
8 the care or maintenance of an existing building and includes,
9 but is not limited to, work performed by a watchman, security
10 officer, door staff, building cleaner, maintenance technician,
11 handyman, janitor, elevator operator, window cleaner, building
12 engineer and groundskeeper.

13 "Building service contract" means a contract let to any
14 covered employer for the furnishing of building services and
15 includes any subcontract for such services.

16 "Building service contractor" means any person who enters
17 into a building service contract.

18 "Building service employee" means any person employed as a
19 building service employee by a covered employer who has been
20 regularly assigned to a building on a full or part-time basis
21 for at least 25 working days immediately preceding any
22 transition in employment subject to this Section except for (i)
23 persons who are managerial, supervisory, or confidential

1 employees, provided that this exemption shall not apply to
2 building engineers for existing properties, (ii) persons
3 earning in excess of \$25 per hour from a covered employer, and
4 (iii) persons regularly scheduled to work fewer than 6 hours
5 per week at a building.

6 "State of Illinois" means any city, township,
7 administration, department, division, bureau, board or
8 commission, or a corporation, institution, or agency of
9 government, the expenses of which are paid in whole or in part
10 from the State treasury.

11 "Covered employer" means any person who owns or manages
12 real property, either on its own behalf or for another person,
13 or any person who contracts or subcontracts with an owner or
14 manager of real property within the State of Illinois for real
15 estate, including, but not limited to, housing cooperatives,
16 condominium associations, building managing agents, and any
17 building service contractor provided, however, that the
18 requirements of this Act shall not apply to (i) residential
19 buildings under 50 units, (ii) commercial office,
20 institutional, or retail buildings of less than 75,000 square
21 feet or retail stores or distribution centers, or manufacturing
22 and assembly or warehousing and logistic facilities, or
23 churches, synagogues, mosques, or places of worship, or
24 elementary or secondary schools, (iii) any building that is
25 owned or operated by a hospital or hospital affiliate as
26 defined in the Hospital Licensing Act, (iv) any building that

1 is owned or operated by a public utility, public utility
2 affiliate, telecommunications carrier, or its affiliate as
3 defined in the Public Utilities Act or independent electric
4 generators, or (v) any administrative building owned and
5 operated by a manufacturer.

6 "Person" means any individual, proprietorship,
7 partnership, joint venture, corporation, limited liability
8 company, trust, association, or other entity that may employ
9 persons or enter into service contracts.

10 "Successor employer" means a covered employer that (i) has
11 been awarded a building service contract to provide, in whole
12 or in part, building services that are substantially similar to
13 those provided under a service contract that has recently been
14 terminated, or (ii) has purchased or acquired control of
15 property in which building service employees were employed.

16 Section 10. Protection for building service employees.

17 (a) No less than 15 calendar days before terminating any
18 building service contract, any covered employer shall request
19 the terminated contractor to provide the successor employer and
20 any collective bargaining representative of any of the affected
21 employees a full and accurate list containing the name,
22 address, date of hire, and employment occupation
23 classification of each building service employee employed on
24 the notice date at the site or sites covered by the terminated
25 contract.

1 (b) No less than 15 calendar days before transferring a
2 controlling interest in any covered building in which building
3 service employees are employed, any covered employer shall
4 provide to the successor employer and any collective bargaining
5 representative of any of the affected employees a full and
6 accurate list containing the name, address, date of hire, and
7 employment occupation classification of each building service
8 employee currently employed at the site or sites covered by the
9 transfer of controlling interest.

10 (c) Any covered employer shall provide to the successor
11 employer and any collective bargaining representative of any of
12 the affected employees a full and accurate list containing the
13 name, address, date of hire, and employment occupation
14 classification of each building service employee currently
15 employed at the site or sites covered by the terminated
16 building service contract no more than 7 calendar days after
17 notice that its building service contract has been terminated.

18 (d) When providing the notice required under this Section,
19 each covered employer shall ensure that a notice to building
20 service employees is posted setting forth the rights provided
21 under this Section and which includes a copy of the list
22 provided under the preceding Sections, and that the notice is
23 also provided to the employees' collective bargaining
24 representative, if any. The notice and list shall be posted in
25 the same location and manner that other statutorily required
26 notices to employees are posted at the affected site or sites.

1 (e) A successor employer shall retain, for a transition
2 employment period of 25 working days at the affected site or
3 sites, those building service employees of the terminated
4 building service contractor and its subcontractors, or other
5 covered employer, employed at the site or sites covered by the
6 terminated building service contract or owned or operated by
7 the former covered employer.

8 (f) If at any time the successor employer determines that
9 fewer building service employees are required to perform
10 building services at the affected building than had been
11 performing such services under the former employer, the
12 successor employer shall retain the predecessor building
13 service employees by seniority within job classification;
14 provided that during a transition period of 25 working days,
15 the successor employer shall maintain a preferential hiring
16 list of those building service employees not retained at the
17 building who shall be given a right of first refusal to any
18 jobs within their classification that becomes available during
19 that period.

20 (g) Except as provided in subsection (f), during such
21 period of 25 working days, the successor contractor's
22 management of the business and the direction of its personnel,
23 including the right to hire, discipline, and discharge
24 employees for just cause is vested exclusively in the
25 contractor. The contractor may require employees to submit to a
26 criminal background check by the Illinois State Police and the

1 Federal Bureau of Investigation.

2 (h) At the end of the transition period of 25 working days,
3 the successor employer shall use his or her own existing
4 practices and forms to perform a written performance evaluation
5 for each employee retained pursuant to this Section. If the
6 employee's performance during the period of 25 working days is
7 satisfactory, the successor contractor shall offer the
8 employee continued employment under the terms and conditions
9 established by the successor employer or as required by law.

10 Section 15. Violation.

11 (a) A building service employee who has been discharged or
12 not retained in violation of this Act may bring an action in
13 court against a successor contractor and covered employer for
14 violation of any obligation imposed pursuant to this Act.

15 (b) The court shall have the authority to order injunctive
16 relief to prevent or remedy a violation of any obligation
17 imposed pursuant to this Act.

18 (c) If the court finds that by reason of a violation of any
19 obligation imposed pursuant to subsection (b), a building
20 service employee has been discharged in violation of this
21 Section, it shall award:

22 (1) Back pay for each day during which the violation
23 continues, which shall be calculated at a rate of
24 compensation not less than the higher of (i) the average
25 regular rate of pay received by the employee during the

1 last 3 years of the employee's employment in the same
2 occupation classification; or (ii) the final regular rate
3 received by the employee.

4 (2) Costs of benefits the successor employer would have
5 incurred for the employee under the successor contractor's
6 or employer's benefit plans.

7 (3) The building service employee's reasonable
8 attorneys' fees and costs.

9 (d) In any such action, the court shall have the authority
10 to order the terminated contractor or former employer to
11 provide the successor employer with the information required
12 pursuant to subsection (c) of Section 10.

13 Section 20. Exemptions. The provisions of this Act do not
14 apply:

15 (1) To any successor employer that, on or before, the
16 effective date of the transfer of control from a
17 predecessor covered employer to the successor employer to
18 the commencement of services by a successor building
19 service contractor, agrees to assume, or to be bound by,
20 the collective bargaining agreement of the predecessor
21 covered building service employees, provided that the
22 collective bargaining agreement provides terms and
23 conditions for the discharge or laying off of employees.

24 (2) Where there is no existing collective bargaining
25 agreement as described in subdivision (1), to any successor

1 employer that agrees, on or before the effective date of
2 the transfer of control from a predecessor covered employer
3 to the successor employer or the commencement of services
4 by a successor building service contractor, to enter into a
5 new collective bargaining agreement covering its building
6 service employees, provided that the collective bargaining
7 agreement provides terms and conditions for the discharged
8 or laying off of employees.

9 (3) To any successor employer whose building service
10 employees will be accredited to a bargaining unit with a
11 pre-existing collective bargaining agreement, provided
12 that the collective bargaining agreement provides terms
13 and conditions for the discharged or laying off of
14 employees.

15 (4) To any covered employer that obtains a written
16 commitment from a successor employer that the successor
17 employer's building service employees will be covered by a
18 collective bargaining agreement falling within subdivision
19 (1), (2), or (3) of this Section.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.